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Security Council

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Letter dated 15 June 2012 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Zambia submitted pursuant to resolution 1624 (2005) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) H. S. **Puri**
Chair
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 1 June 2012 from the Permanent Representative of Zambia to the United Nations addressed to the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to refer to the letter dated 27 May 2011 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

In that regard, please find attached the submission from the Government of the Republic of Zambia concerning the implementation of Security Council resolution 1624 (2005) (see enclosure).

(*Signed*) Mwaba **Kasese-Bota**
Ambassador
Permanent Representative

Enclosure

Implementation of resolution 1963 (2010)

1. Question

How does your Government assess the evolution of risks and threats in your State associated with the issue of incitement to commit acts of terrorism?

Answer

The Government does not yet have an established mechanism for assessing the evolution of risks and threats in the State associated with the issue of incitement to commit acts of terrorism, despite such conduct being criminalized under the Anti-Terrorism Act No. 21 of 2007.

2. Question

Does your Government assess whether there are any particular difficulties involved in implementing resolution 1624 (2005) and, if so, how might they be effectively addressed?

Answer

The Government considers that there are some practical challenges in addressing resolution 1624 (2005) that arise as a result of the inadequacies of the legislative framework relating to the prevention and suppression of terrorism.

However, the Government is determined to address those deficiencies through the review of the various pieces of legislation that are relevant to the prevention and suppression of terrorism. Furthermore, the Government has initiated a constitutional review process that will further enhance the legislative framework of the country by expressly prohibiting incitement to violence and other conduct, including terrorism.

Implementation of resolution 1624 (2005)

Paragraph 1

Paragraph 1.1

1. Question

What measures does your country have in place to prohibit by law and prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Answer

Section 21 of the Penal Code of Zambia provides for parties to offences. The section provides that:

> 21. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say:

(a) Every person who actually does the act or makes the omission which constitutes the offence;

(b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) Every person who aids or abets another person in committing the offence;

(d) Any person who counsels or procures any other person to commit the offence.

(2) In the case of paragraph (d) of subsection (1), such person may be charged either with committing the offence or with counselling or procuring its commission. A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence. Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with doing the act or making the omission.

Sections 10 and 11 of the Anti-Terrorism Act No. 21 of 2007 provides as follows:

10. (1) A person who incites another person to commit an act of terrorism commits an offence and is liable, upon conviction, to imprisonment for life.

(2) For the purposes of subsection (l), it is immaterial whether or not the person incited is in Zambia at the time of the incitement.

11. A person who aids, abets, counsels, procures, incites or solicits the commission of a terrorist act, commits an offence and is liable upon conviction, to imprisonment for life.

Paragraph 1.2

2. Question

What measures does your country take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Answer

Section 3 of the Anti-Terrorism Act No. 21 of 2007 extends the jurisdiction of the High Court in relation to terrorism so as to ensure that a person cannot escape justice once in Zambia. The section provides as follows:

3. (1) Subject to the other provisions of this Act, the High Court has jurisdiction to try any offences under this Act.

(2) Any person who commits an offence outside Zambia is deemed to have committed that offence in Zambia if:

(a) That person is a Zambian citizen;

(b) That person is not a Zambian citizen but is ordinarily resident in Zambia;

(c) That person, after the commission of the offence, is present in Zambia;

(d) That person has committed the offence against a Zambian citizen or against a person who is ordinarily resident in Zambia.

Section 45 of the Anti-Terrorism Act provides that:

45. (l) Where Zambia is a party to a counter-terrorism convention and there is in force an extradition agreement between the Government of Zambia and another State which is a party to that convention, the extradition agreement shall be deemed, for the purposes of the Extradition Act to include provision for extradition in respect of offences falling within the scope of that convention.

(2) Where Zambia is a party to a counter-terrorism convention and there is no extradition agreement in force between the Government of Zambia and another State which is a party to that convention, the Minister responsible for foreign affairs may, by order published in the Gazette, deem the counter-terrorism convention, for the purposes of the Extradition Act, to be an extradition agreement between the Government of Zambia and that State, providing for extradition in respect of offences falling within the scope of that convention.

(3) Where a citizen of Zambia has been arrested in another country under a law of that country relating to terrorism, the Attorney-General shall employ all due diligence to ascertain the circumstances of the case and, if necessary, take such action as the circumstances of the case may require.

Paragraph 2

Paragraph 2.1

3. **Question**

How does your country cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent possible, be enhancing terrorist screening and passenger security procedures?

Answer

Section 37 of the Act provides that:

37. (l) The Third Schedule shall have effect to confer powers to examine persons arriving in or leaving Zambia and for related purposes.

(2) The powers conferred by the Third Schedule shall be exercised notwithstanding any right conferred by the Immigration and Deportation Act.

The Third Schedule provides for terrorism border control measures as is provided in the appendix attached to the present letter.*

Part VII of the Anti-Terrorism Act No. 21 of 2007 provides for mutual assistance and extradition in matters related to terrorism. Section 41 of the Anti-Terrorism Act further provides that:

> 41. (l) The Attorney-General may, at the request of a competent authority of a foreign State, disclose to that authority any information in the Attorney-General's possession relating to any of the following:
>
> (a) The actions or movements of persons suspected of involvement in acts of terrorism;
>
> (b) The use of forged or falsified travel papers by persons involved in acts of terrorism;
>
> (c) Traffic in weapons and sensitive materials by persons suspected of involvement in acts of terrorism;
>
> (d) The use of communications technology by persons suspected of involvement in acts of terrorism;
>
> (e) The commission of offences by any person against this Act;
>
> if the disclosure is not prohibited by any provision of law and will not be prejudicial to national security or to public safety.

Zambia is a party to several bilateral agreements on mutual legal assistance and extradition around the region.

Zambia has joined permanent commissions with neighbouring St ıtes and deals with matters of security and border control generally and especially in response to various new and upcoming threats.

Zambia is in the process of developing a new national identity card which is electronic and machine-readable.

Paragraph 3

Paragraph 3.1

4. **Question**

What international efforts is your country participating in or considering participating in/initiating, in order to enhance dialogue and broaden understanding among civilizations, in an effort to target the indiscriminate targeting of different religions and cultures?

Answer

Zambia is a State Member of the United Nations and various United Nations agencies, such as the United Nations Educational, Scientific and Cultural Organization.

* The appendix is on file with the Secretariat and is available for consultation.

Paragraph 3.2

5. Question

What steps is your country taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Answer

Zambia enacted the Anti-Terrorism Act No. 21 of 2007. Section 10 of the Act (see above) prohibits incitement to commit terrorist acts.

Clause 36 of the first draft constitution of the Republic of Zambia provides that:

36. (1) A person has the right to freedom of expression which includes:

(a) Freedom to hold an opinion;

(b) Freedom to receive or impart information or ideas;

(c) Freedom of artistic creativity;

(d) Academic freedom;

(e) Freedom of academic research.

(2) Clause (1) does not extend to:

(a) Propaganda for war;

(b) Incitement to violence;

(c) Advocacy of hatred that:

(i) Vilifies or disparages others or incites harm;

(ii) Is based on any prohibited ground of discrimination specified in this constitution;

(d) Any other unlawful purpose.

(3) In the exercise of the right to freedom of expression, a person shall respect the rights and reputations of others.